

# Human Rights as Mashiach



A Jewish Theology of Human Rights

An essay by Shaiya Rothberg

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# Human Rights as Mashiach

A Jewish Theology of Human Rights

by Shaiya Rothberg

## **The Theology of Human Rights**

It happens now and again that powerful new ideas change the course of history. I'm talking about a special class of redemptive ideas that push humanity to a higher stage of evolution, a stage in which we as a species are wiser and more loving and more just than we were before. One such idea was that all human beings are created in the image of God. Another was that faithfulness to God means abolishing slavery. I think that on the cultural horizon of the human species today there is such a new idea, an idea that could help redeem humanity from her present state of exile and destruction. That idea is the theology of human rights.

I believe that the human rights vision of humanity has started to imprint itself on the mind of our race. Even as we are broken and divided, humanity's inner eye has awoken to imagine the magnificence of an international order in which we as a species invest what's necessary to protect and nurture every human being. As people come to recognize that we could take moral responsibility for each other if we willed it, the monstrosity of our present indifference to poverty and oppression becomes impossible to ignore. Even our most compelling stories about the sovereignty of states and the sanctity of private property lose their force. They can no longer blot out the faces of suffering humanity from our view as they did before.

The world movement for human rights, as I see it, is in essence the human race taking moral responsibility for itself.<sup>1</sup> Committing to the civil, political, economic, social and cultural rights formulated in the International Bill of Rights<sup>2</sup> would mean accepting upon ourselves our most elementary obligation: to use our power to protect human life. Our failure to do this today highlights the barbaric nature of the present world order. The human rights project doesn't lift humanity into the clouds. It is one evolutionary step towards an order worthy of the name "human civilization".

At its core, the practice of human rights can be understood as seeking agreement across our species about what political power must do and what it must not do. In this sense, human rights might be called "the human covenant". Every person and people is invited to participate on equal footing

from their own cultural perspective in determining the contents of this covenant. On the table are important questions about the concept of "rights" and about the different ideas of justice embodied in the world's cultures. Without doubt, people will forever argue about these questions. And that's fine: debating the issues doesn't undermine human rights practice but rather constitutes an essential part of it. The authority of human rights is not dependent on the claim that they are "culturally neutral" or on any other philosophical claim. Human rights are binding to the degree that the earth's peoples actually consent to them through laws, treaties and established norms.

Today, more than sixty years after the Universal Declaration on Human Rights, we are not starting from scratch. The majority of human beings live in states that have committed themselves to the International Bill of Rights in all or part. That has not been enough to protect human rights, but it has resulted in human rights becoming the lingua-franca of political legitimacy across the globe. Governments and peoples' movements of every culture justify themselves in human rights terms. And international human rights law has grown robust. It affects the lives of billions through regional courts in Europe, America and Africa; as expressed in international treaties, courts and organizations; as embedded in dozens of national legal systems; and as the heart of global civil society through organizations like Human Rights Watch.

We still cannot deliver international justice. But we have begun to learn how to think and talk about it. And as we do, the depravity of the present world order steps into starker contrast. Countless human beings starve, live in bondage and die in violence. We as a species have tremendous wealth and power at our disposal, but we don't use them to protect these human beings. The religious turn to the sources of religious inspiration to seek answers: How can we transcend the fallen state that leaves billions malnourished and downtrodden? How can we grasp the *divine* significance of universal human rights? God's Word on global human dignity must find its voice and be heard!

While religion is sometimes the enemy of human dignity, it can also be a powerful force for its protection. When John Woolman, an American Quaker born in 1720, began preaching that faithfulness to God requires abolishing slavery, he ignited a religious passion that helped facilitate the global paradigm shift that outlawed human bondage across the planet. That religious passion united humanity's moral intuition with her awe in the face of God's creation; it wove the mysterious and enthralling presence of the divine into the love that humans can know for the other. The time has come to preach global moral responsibility: God commands that we enact a "human covenant" to protect and nurture all human beings. While all doctrines may be criticized and all laws revised,

the confidence that humanity has placed in human rights establishes them as the foundation of that sacred effort.

What we need is an inter-faith and multi-cultural theology of human rights constructed like a mosaic from the world's religious perspectives. We need a theology that will direct the religious energy of our species towards protecting and nurturing human beings. To that end, I offer the below particularistic Jewish contribution to human rights theology. It is more of a program for future study than a complete theology. But the outline is clear. My approach is provocatively, but accurately, summed up in the statement that the global human rights movement is *mashiach* (the Hebrew word for "messiah" or "anointed one") and that a global order guaranteeing the International Bill of Rights as contained in the Universal Declaration and the two covenants is the foundation for the kingdom of God.

### **A Jewish Theology of Human Rights**

The Jewish theology of human rights emerges by juxtaposing sacred texts and interpreting them in light of each other. I call this "midrash". It involves a close reading of texts, but also seeking to understand themes selected from one text in light of themes from other texts. Midrash is both about discovering meanings and transforming them. I'll talk more about this interpretative methodology later. We'll begin exploring Jewish human rights theology with the Rambam, who was the great medieval Jewish philosopher and legal scholar Rabbi Moses Maimonides. Here is his vision of redemption:

#### **Laws of Judges 12:4-5 (based on Machon Mamrei's Mishneh Torah<sup>3</sup>)**

The sages and the prophets did not long for the days of the mashiach that Israel might exercise dominion over the world, or rule over the peoples, or be exalted by the nations, or that it might eat, drink and rejoice. Their longing was that Israel be free to devote itself to the Torah and its wisdom, with no one to oppress or disturb them, and thus be worthy of life in the world to come...

In that era, there will be neither famine nor war, neither jealousy nor strife. Blessings will be abundant, comforts within the reach of all. The one occupation of the whole world will be to know God. Thus they will become greatly wise, and will know hidden and deep matters; grasping the knowledge of their Creator to the utmost capacity of the human mind, as it is written, (Isaiah 11:9), "[They will not hurt nor destroy in all My holy mountain] for the earth will be filled with the consciousness of God as the waters cover the sea."

Understanding this vision requires grasping a number of themes in the Rambam's writings. He envisions a world in which we as a species invest everything we've got in realizing our potential to be in the image of God. You are in the image of God for the Rambam if you are performing acts of loving-kindness and justice while contemplating the true nature of God's universe. The Rambam

explains that the magnificent truth of the universe evokes love and awe, and in that state of mind, one is motivated to imitate God through acts of loving-kindness and justice. In truth, loving-kindness and justice, the Rambam sees the image - the reflection - of something worthy of worship. He calls that something "God", the Most High.<sup>4</sup>

The God that is reflected in truth, loving-kindness and justice is the only true object of worship and allegiance. We serve God because ultimate value demands ultimate commitment<sup>5</sup>. Since God is reflected in human beings, and since imitating God means loving-kindness and justice, faithfulness to God means protecting and nurturing human beings. The ultimate goal is to cultivate humanity's potential to be in God's image, thus filling the world with the consciousness of God as the waters cover the seas.

Accomplishing this goal requires a suitable world order. For the Rambam, the Torah is God's blueprint for that order. It is the divine constitution for the government of the human species. The Rambam says that the Torah has two goals: "to mend the body of humanity" and "to mend the soul of humanity". Mending the body of humanity consists of eliminating oppression and guaranteeing all people the necessary conditions for dignified life such as housing, medicine and education. Mending the soul of humanity means engineering culture through education and spiritual practice so that it will produce people who are as wise, loving and just as they can be<sup>6</sup>.

The Rambam accepts the traditional definition of the "mashiach" as the anointed king of Israel, but he transforms this usually supernatural ideal into part of his pragmatic this-worldly plan to establish the divine constitution as the world order. That means the just rule of law for all human beings. Everywhere people will live in states that protect them from oppression and cultivate their potential to be wise, loving and just. No human capacity to reflect God will be wasted. The mashiach is "this worldly" because the Rambam rejects the idea of a magical messiah who works miracles. The real mashiach effects change through pragmatic action. The final goal of the mashiach is mending the body and soul of all humanity through a just world order. That order will guarantee that we will not hurt nor destroy in all of God's earth so that we may come to grasp the consciousness of our creator to the utmost capacity of the human mind<sup>7</sup>.

The Rambam completes his vision of redeemed humanity with a reference to Isaiah. I think his vision is a medieval philosophical midrash on Isaiah's ancient prophecy. Isaiah preached against a particular conception of idolatry that he characterized as a self-aggrandizing worship of power that went hand in hand with oppression of the weak.

### **Isaiah 2:8 - 3:15**

Their land also is full of idols; they worship the work of their own hands, that which their own fingers have made...

The lofty looks of man shall be humbled, and the haughtiness of men shall be bowed down, and the LORD alone shall be exalted in that day...[He]...will enter into judgment with the elders of his people...

"For you have eaten up the vineyard!

The spoil of the poor is in your houses!

What mean you that you beat my people to pieces?!

and grind the faces of the poor?!"...

How did the Rambam interpret these words of Isaiah? I imagine that the Rambam read Isaiah like this: the idolaters grind the faces of the poor because their interests are more ultimate in their eyes than human beings. But God created humanity to reflect God's own truth, justice and loving-kindness and not to be fed as raw material into the strong man's machine. When the powerful take what they want because they can, and call that justice, they worship themselves and not the Most High. True allegiance to God means protecting life and eliminating injustice (mending the body) and cultivating humanity's higher potential (mending the soul). Allegiance to a political order that oppresses the weak is idolatry.

Isaiah envisioned a global order that would redeem humanity from idolatry and oppression and its heart would be Mount Moria, the Temple Mount, in Jerusalem. More than two thousand years later, the Rakha<sup>8</sup> (Rabbi Khayim Hirschensohn, Safed, Israel 1857 - New Jersey, USA 1935 ) read both Isaiah's vision and that of the Rambam in light of the fragile international organizations that existed between the two World Wars:

#### **Malki Bakodesh, Part One, Question 2**

Its not far out to think that this period [the establishment of modern Israel] is the one about which Isaiah prophesied (2:2) "In the days to come, the Mount of the Lord's house shall stand firm above the mountains, and tower above the hills, and all the nations shall stream towards it" ...for Torah and for illumination...

and this is because in this House will be the Hall of Peace - but not like the Hall of Peace in the Hague, where the peace representatives bow down before the glory of those whose power casts its shadow over the world of life, and any hint that some ruler has done injustice is considered a rebellion.

And it will be more than the League of Nations established by the "father of national morality" President Wilson, which in any case has more good will than legal power, but rather it will be the "Court of Nations" which will judge the peoples in justice and the nations with righteousness...and the corrupted idea that nationalism justifies iniquity and evil will be banished, and there will be justice for every nation and for every individual, for each one has the right to develop in his own unique way, but without damaging his fellow, and there will be no more oppression...nation shall not take up sword against nation, neither will they learn war anymore...<sup>9</sup>



In the Rakha's vision, like in Isaiah, the Temple Mount is the center of the global rule of law. Like the Rambam, it's about this-worldly justice for all human beings without miracles. But with no magical messiah, what could enforce the rule of the Rakha's Court of Nations in the real world? The Rakha believed that mending the body and soul of humanity involves the slow evolution of human civilization. Global justice will be accomplished gradually as the families of the earth covenant between them upon ever higher standards of justice and civilization<sup>10</sup>.

As civilization evolves towards a higher humanity, new standards of international law emerge. The Rakha argues that these standards are binding from the Torah. That makes theological sense because they are the vehicle for realizing God's plan to mend the body and soul of humanity.<sup>11</sup> But the Rakha also argues that international law is binding from the Torah in a legal sense. The legal obligation is grounded in "mitsvat dinim" or "the commandment of laws" which obligates all people to establish just legal systems<sup>12</sup>. International law is also binding because the Torah recognizes the binding power of covenants and treaties. Furthermore, the Rakha argues, for the Jewish state to violate human dignity in contradiction to international law would be the worst possible desecration of God's name imaginable.<sup>13</sup>

But what if international law contradicts traditional Jewish law? Assuming that the international law in question increases justice rather than diminishes it, the Rakha says that according to the Torah, international law overrides Jewish law<sup>14</sup>. The background for this is the well established rabbinic principle that sometimes achieving the larger goals of God's Word requires overrides the letter of the law<sup>15</sup>. Since the sages are commanded to continually reinterpret Jewish law in light of the advance of civilization, it is surely better to reinterpret rather than override. But if for whatever reason this is not done, it is international law that has greater Torah authority.

For example, the words "you shall not leave one soul alive" (Deut. 20:16) have traditionally been understood to command genocide against the seven nations of the Land of Israel if they refuse to vacate the land or accept slavery to the Jews. The Rambam rules that even though the seven nations no longer exist, if they did, we would be commanded to kill them even today: "anyone who meets one of them and doesn't kill him has violated a negative commandment as it is written, 'you will not leave one soul alive'" (Hilchot Shoftim 5:4). The Rakha, breaking rank with most authorities, argues that this was an ancient military tactic and that today there is no such commandment. This is an example of reinterpreting the law rather than overriding it. But even if you think Jewish law does command genocide, says the Rakha, you are still obligated from the Torah to respect international

law that prohibits it. When international law represents a new and higher standard of human civilization, it trumps Jewish law from the Torah itself<sup>16</sup>.

On this basis, I believe that international human rights law, as covenanted upon by the families of the earth in the aftermath of the Holocaust, is absolutely binding from the Torah and overrides any law that contradicts it. In the spirit of the Rambam, I define "mashiach" as the this-worldly force that moves humanity closer to the kingdom of God. In our generation, I think that's the global movement for human rights. Human rights are the key both to the well being of the Jewish state and to the well being of humanity as a whole.

In the opening, I said that a global order guaranteeing human rights is the foundation for the kingdom of God. Why the *foundation* rather than the kingdom itself? Here again I'm following the Rambam. His vision goes beyond even the most expansive interpretation of human rights. His divine constitution involves exploring the farther reaches of human nature through investing in higher culture and mindfulness training. Only then can we test the boundaries of how wise, loving and just human beings can be. In such a world order, consecrated to mending the body and the soul of humanity, I see the kingdom of God.

### **The Interpretative Methodology behind the Theology**

That's the heart of this Jewish theology of human rights. Now let's pause to take a look at the interpretative methodology that it's based on. I presented a number of themes in the Rambam, Isaiah and the Rakha. While I expressed these themes in a way calculated to emphasize the points important for this presentation, at the same time I tried to remain faithful to what it says in the texts. But I was highly selective about which themes were included.

For example, I presented Isaiah's vision of global justice as the pinnacle of the Rambam's divine constitution. But I ignored Isaiah's supernatural understanding of politics that is diametrically opposed to the Rambam's practical rationalism. And I read the Rakha's Court of Nations as the instrument for the Rambam's just world order. But the Rakha envisioned a global coalition of liberal democracies while the Rambam's ideal state would look something like today's Iran. So I ignored the form of government that the Rambam thought would lead to human perfection. What determines which themes get included and which left out?

It is the logic of religious truth that chooses the themes and fits them together. What logic is this? Following the Rambam, I believe that things like truth, loving-kindness and justice *as I understand*

*them* reflect the only true object of allegiance. That's not because my mind can fully grasp God; of course, it can't. And that's not because God is limited to those things; I also see God in the beauty of human beings and in the infinity of the universe and in a host of other things. But I can only worship, *in good faith*, the God who is the source and essence of what *I recognize* as ultimate value. If I were to call anything less than that, "God", I would be professing allegiance to that which I do not honestly recognize as the Most High, and that is idolatry. Authentic religious consciousness dictates that I pay homage only to that which I sincerely recognize as so ultimately valuable that it demands my absolute allegiance.

Notice a critical assumption in this notion of religious truth: I think I know something about what is worthy of worship. That may seem counter intuitive. Should I not say that authoritative tradition dictates to me what is worthy? Absolutely not! If I cannot trust my most basic spiritual and moral intuitions, how do I know that I should worship God? If my considered judgment is not of religious import, how can I navigate the manifestly contradictory ideals contained in historical Judaism? The logic of religion is that we forever critically review our intuitions about God in light of the sacred tradition that we practice. But the bottom line is that if we cannot trust our sense of what is worthy of service and worship, *then we can have no access to God*, and even piles upon piles of prayers and authoritative texts can't help us.

It follows that the religious truth of sacred text is always necessarily a form of *midrash*. What texts like the Five Books of Moses, Isaiah and the Rambam meant in historical context is not what religiously binds us. The true religious meaning of sacred text is that meaning which draws us closer to God. We are not bound by the historical meaning for the simple reason that we worship God and not history. Religious meaning is meaning consecrated to God. Since human civilization and consciousness have dramatically changed during the evolution of our species, that which draws us closer to God is forever in flux. When our conceptions of loving-kindness and justice evolve, so do the true religious meanings of our tradition. The notion that a religion should remain forever the same is nonsensical and destructive. Commitment to religion *means* commitment to reinterpreting our received traditions in light of our ever unfolding consciousness of God.

Both the Rambam and the Rakha explicitly taught us to interpret sacred text in this way. The Rambam understood scientific and philosophical truth, which he called "intellect", as the measure of all value. And so he directs us to interpret sacred text in light of that truth. If it looks like the simple meaning contradicts intellect (i.e. it says that God has a human body), then the interpreter must *struggle* with the text until she finds its true meaning; one that does not contradict intellect

(i.e. God's "hand" symbolizes agency). Since the Rambam believes that God is reflected in philosophical truth, the religious meaning of the text will always be something he recognizes as philosophically true.<sup>17</sup>

Similarly, the Rakha teaches that if Jewish law and morality seem to contradict each other, we are either wrong about the law or about morality. He says that we must keep *struggling* with the text until we find a solution that is honestly compelling to us both as an interpretation of Jewish law and of morality. We saw an example of the Rakha's interpretative methodology vis-à-vis genocide and international law, above. Since the Rakha believes that God is reflected in his most compelling judgments about morality, the religious meaning of the text will always be something he recognizes as morally good.<sup>18</sup>

It's not that these two sages first decided what the texts meant and then read them. Rather, they read the texts as *coming from God*. When you know something about the person speaking to you, then you know in light of what to interpret her words. The Rambam and the Rakha know that God is the essence and source of *what they judge to be* truth and justice. And so, when they read *sacred tradition*, tradition whose meaning is consecrated to God, they assume what they know about those things. This is *midrash*: There is no false consciousness here. There's no bad historical claim about what these texts meant in the past. The Rambam and the Rakha read Jewish tradition in this way because they understood *the logic of religious truth*. They seek the meaning *that draws us closer to God*.

And so the supernatural politics of the historical Isaiah do not bind us religiously. In the world that we know, ignoring military and international realities would lead to terrible suffering and destruction. And while we can understand why the 12th century Rambam believed in theocratic monarchy, today we see in such regimes horrific oppression and corruption. The true religious meaning of sacred text *always stands in relation to what we understand* as truth, love and justice. The words that we interpret as *coming from God* can never teach us false, immoral or destructive things. Just as the logic of religious truth dictated that the Rambam reinterpret Isaiah, so too we must reinterpret the Rambam today.

With eyes set on the God of truth, loving-kindness and justice - the God in whose image were created all the members of our species - we must face broken humanity. We don't need authoritative tradition to recognize the depravity of a world order that squanders the lives of billions of human beings. It is absolutely clear that faithfulness to God requires that we enact "the human covenant" as

necessitated by *mitsvat dinim* (God's commandment to all peoples to establish the just rule of law). Human rights are already halfway to being that covenant and at present this project is the best candidate to succeed.

And therefore, human rights are *mashiach* (the practical this-worldly force for human redemption). Sure in that knowledge, I turn to the sources of my religious inspiration to seek answers: What does the Torah teach about this project? How should I think about human rights in light of Jewish theology and law? What I already know about truth, justice and love helps me choose the themes and figure out how to put them together. I am struck first by the clarity and force of the Rambam: since God is reflected in perfected humanity, faithfulness to God means perfecting humanity. But it is Isaiah's vision of the House of God on the Temple Mount that carries the weight of the prophet's cry to protect the widow, the orphan and the alien. And it was in the Rakha that the attempts at the international rule of law, made between the World Wars, resonated so deeply with the words of Isaiah and the Rambam. In these sources, I hear answers to the questions that we face. This theology of human rights is a living response to contemporary reality whose vital organs are themes in Torah texts of old. It is a political form of Jewish religious truth.

### **The Mystery of Human Rights**

In this spirit, there is one more sacred text that I want to address: the Holy Zohar, the bible of Kabbalah. Now, the historical meaning of this text is arguably ethnocentric to the extreme. But as stated above, religious truth dictates the worship of God and not history. The *religious truth* of the Zohar transcends its historical limitations. The Zohar has something vital to teach us about human rights. It comes to teach us how they involve God's mystery and glory.

You may think that we human beings own the name "humanity". But the Zohar teaches that humanity is bigger than we are. One of the most important symbols in the Zohar is constituted by three Hebrew letters: *Aleph, Dalet and Mem* or ADAM. (I'm spelling ADAM in all-capitals to emphasize that this is a mystical symbol and not a regular word.) The word "adam" in Hebrew can be translated as "humanity". And this meaning will be part of what I want to learn from the Zohar about human rights. But what does ADAM symbolize in the Zohar itself? The meaning of the Zohar is always a matter of poetic interpretation. So I won't try to offer a linear definition of ADAM. Instead, I'll introduce some of the meanings of this symbol that shed light on how exploring the mystery and glory of God is tied up with human rights.

Let's begin with Genesis. In the Garden of Eden, "Adam" is the man married to Eve. But in Genesis 5:2, "adam" is the name of both the first man *and* the first woman, as it is written, "...male and female God created them, and blessed them, and called *their* name adam". With this as background, let's approach some of what the Zohar says about ADAM. The Zohar says that ADAM is "the loving relation between male and female"<sup>19</sup>. The Zohar further says that ADAM is "the face to face relation" and "the embrace of giving and receiving". If we take all these phrases together, then it seems that one thing that ADAM symbolizes is the capacity of human beings to love and nurture each other. This capacity, displayed in the myriad forms of loving human relationships, enables our species to survive and flourish. And it is essential to what makes us human beings. And thus, ADAM, which also means "humanity" as mentioned above, seems like a good symbol to symbolize our ability to love each other, and to be fruitful and multiply.<sup>20</sup>

But the loving and life-giving dynamic of ADAM did not begin with human beings. The Zohar teaches that

...before God fashioned God's self [into the form of ADAM]...the worlds could not endure, and all those worlds were destroyed. Why? Because ADAM had not been established; for the wholeness of the form of ADAM contains all things, and all things find their place in it.<sup>21</sup>

In this myth of creation, the Zohar tells of worlds that God created before our world. But these pre-creation creations could not endure. God needed *to transform God's self* into the form of ADAM in order to create a sustainable universe. God had to realize the divine potential for "the loving relation", "the face to face relation" and "the embrace of giving and receiving" in order for the world to survive. After taking on the form of ADAM, God created the world in God's image (the image of ADAM) and only then could creation endure. And so the Zohar also calls ADAM "the balance of the cosmic scales" that sustains all existence. That reminds me of the *balance* of positive and negative energy in the atoms that make up the material world; and of the *balance* of gravitational forces that hold our planet at just the right distance from the sun. These, like the loving embrace and the face to face relation, manifest God's creative power. ADAM is like a divine pulse responsible for all life and existence; or like enchanted music that God brought forth from within God's self and then played aloud in order to animate the world.

We are called "the children of ADAM" (bnei ADAM) because ADAM is God's form and we are created in God's image. Our capacity to love and nurture manifests "the balance of the scales" that sustains the world. When we cultivate our capacity to be wise, loving and just, we touch on the mystery of God's own self and the purpose of creation. God called us "ADAM", "humanity", not to supply us with a proper name but *to reveal the purpose of our species*. We exist in order to be

*human*: to embody as much of ADAM as we can, and thus to be in God's image and to help repair and sustain the world. Paradoxically, the more *human* that we become, the more we are like God. We cannot fathom how close to God humanity could become, because everywhere she is broken and abused. Faithfulness to God means perfecting humanity. And in the progress towards that goal, the glory of God is ever more revealed.

In our time, we have witnessed the rise of a *human* discourse of responsibility that is spreading across the globe. Even as she is malnourished and downtrodden, the inner eye of humanity has glimpsed the magnificence of a global order of human rights. Will that glimpse vanish under the burden of poverty and oppression? Will the countenance of humanity be forced back to the floor by famine, indifference and tyranny? Or might the spirit of God, still hovering over the deep, arouse our species to grip on hard and drag itself up the ladder to a higher stage of evolution? The book is open and the hand writes...it chronicles the unfinished story of the human race in our generation.

## About the Author



Shaiya Rothberg lives in Jerusalem with his wife and three sons and teaches Bible, Jewish Philosophy and Kabbalah at the *Conservative Yeshiva in Jerusalem*. Shaiya's teaching and writing focus on reconnecting to the basic symbols of Torah in order to explore the transformative potential of Jewish tradition. To this end, he's presently working on a general theology of Judaism, with a focus on prayer, called **What do you mean when you say God?** ([link](#)), and also on a **Jewish Theology of Human Rights** ([link](#)).

Shaiya holds a PhD from Hebrew University in Jewish Thought. His doctorate, **The Democratization of the Jewish Political Tradition – Rabbi Chaim Hirschensohn's Political Thought and its Jewish Sources** [Hebrew]([link](#)), was accepted in 2008. Earlier, Shaiya received a B.A. in Jewish Philosophy and Talmud from Bar-Ilan University and also engaged in traditional yeshiva study at *Machon Meir* (88-89), *Machon Pardes* (89-90), *HaMachon HaGavoah L'Torah* (93-96), *Machon Shalom Hartman* (96-97), and the *Kollel at the Conservative Yeshiva* (2002-2012).

Shaiya grew up in New Jersey and made *aliyah* to Israel in 1988 at the age of 19. He served as a soldier and officer in the I.D.F. from 1990-1993. After the military, Shaiya worked at The Adam Institute for Peace and Democracy as program developer and team-director for the religious sector (*mamlachti dati*) until he began teaching at the Conservative Yeshiva.

Check out [humanrightstheology.net](http://humanrightstheology.net)!



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<sup>1</sup> The term "human rights" is not the only name for the humanity-focused discourse and practice that I have in mind. Later on, I'll suggest the term "the human covenant". A big part of what I mean by "human rights" and "the human covenant" would be Ruti Teitel's "Humanity's Law". I've chosen to focus on "human rights" because this term is central to humanity-focused global civil-society activism. While laws and legal institutions are critical, I see in civil-society human rights activism an activity which is not only important for repairing the world, but is also a transformative religious praxis for the individual and community. That is, I see human rights activism as a form of ritual religious service. But by using the term "human rights", I don't mean to exclude other humanity-centered realms of thought, law and practice.

<sup>2</sup> The International Bill of Human Rights consists of the core U.N. Human Rights documents: the Universal Declaration of Human Rights (adopted in 1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and additional protocols. Almost two thirds of the countries of the world have committed themselves to all or part of the International Bill of Human Rights.

<sup>3</sup> The Mishneh Torah or "Repetition of the Law" is Maimonides' influential code of Jewish Law. The Machon Mamrei version is based on the Yemenite manuscripts and there are some differences between this version and the standard printed versions. The most important difference for our purposes is that in the standard printed versions it says that "Israel" will become "greatly wise", whereas in the manuscripts the word "Israel" does not appear. For a scholarly argument that the manuscripts are correct (and so the quote above without "Israel" in the second paragraph is correct) see Kellner, Menachem, "Translation and 'Improvement'" (Hebrew), appearing in **Bedarkei Shalom** (edited by Binyamin Ish Shalom), pgs. 255-263.

<sup>4</sup> In various places, the Rambam defines being in the "image of God" as realizing the *intellectual ideal* (see Mishneh Torah, Hilchot Yesodei Hatorah, Chapter 4, Halacha 8; **Eight Chapters**, Chapter 5). He further says that when realizing that ideal, one is engulfed in *love and awe* (Mishneh Torah, Hilchot Yesodei Hatorah, Chapter 2, Halachot 1-2). Additionally, he says that one who realizes the intellectual ideal is motivated to imitate God through acts of *justice, loving-kindness and charity* (see the **Guide to the Perplexed** 3:54 and 1:54). I think that all of this - *truth, love, awe, justice, loving-kindness and charity, and how these guarantee world peace and justice* - must be taken into account in order to understand what the Rambam means by "intellect" and the "image of God". And so I said in the Rambam's name, "In truth, loving-kindness and justice, the Rambam sees the image - the reflection - of something worthy of worship. He calls that something God, the Most High".

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<sup>5</sup> It's clear that for the Rambam, the realized human serves God and the Law because of their intrinsic value and not in deference to authoritative tradition (see his **Commentary on the Mishnah**, Tractate Sanhedrin, "Perek Chelek"). Even as the concept of "intellect" is the key to understanding every aspect of Torah for the Rambam, he says in the Guide 1:71 that he did not receive any authoritative Jewish tradition about it. Intellect is what the Rambam autonomously recognizes as ultimate value (see note 4 above for my interpretation of "intellect"). And so I said above in the Rambam's name, "The God that is reflected in truth, loving-kindness and justice is the only true object of worship and allegiance. We serve God because ultimate value demands ultimate commitment."

<sup>6</sup> See the **Guide to the Perplexed**, 2:40. It's clear from the context that the Rambam is talking about the human species in general and not the Jewish People in particular. For the application of his idea of the divine constitution to the Jewish People, see the **Guide to the Perplexed**, 3:27. Here (3:27) the Rambam offers the definitions of "mending the body and soul" that I used in the body of the text above.

<sup>7</sup> For Rambam's discussion of the mashiach, see **Mishneh Torah**, Hilchot Melachim, Chapters 11-12. The Rambam envisioned an independent Jewish state in the Land of Israel as the center of the just world order to be established by the mashiach. While I don't identify with the Rambam's Israel-centric view of global justice, my own liberal-democratic version of Zionism draws heavily upon his writings. I hope to treat the Rambam's vision of the return to Zion, and its human rights significance, in a separate article.

<sup>8</sup> The "Kh" in "Rakha" is pronounced like the guttural German "ch", as in "achtung" (attention).

<sup>9</sup> Malki Bakodesh is the Rakha's great six-volume responsa on Jewish Law relating to the modern State of Israel and other contemporary issues. Here are links to the [original printing](#) and to [David Zohar's new annotated edition](#).

<sup>10</sup> Unfortunately, the Rakha's writings have not been translated into English. An English summary of my doctoral research on the Rakha is available [here](#). The full doctorate, **The Democratization of the Jewish Political Tradition – Rabbi Chaim Hirschensohn's Political Thought and its Jewish Sources** (from here on abbreviated as "**Democratization**"), is available [here](#) (Hebrew). The Rakha talks about the importance of the evolution of civilization in many places. For example, see [Malki Bakodesh, Volume 1, pg. 8 \(original printing\)](#) or [pg. 7 \(David Zohar's edition\)](#) where he makes clear that democracy is the form of government necessitated by the present stage of civilization. Regarding international law and covenants, see below.

<sup>11</sup> The Rakha believes that the most important thing that we know about God is that God seeks a this-worldly good life for human beings as understood, for instance, in the Rambam's concept of

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mending the body politic. One clear expression of this idea can be found in his early writings in a journal called **Hamisderonah** (Year 1, Number 9, Letter 821); I've extracted the relevant quotes and posted them [here](#) [Hebrew]). For an analysis of the Rakha's idea of the good that God wants for humanity, see **Democratization**, pg. 15ff [Hebrew].

<sup>12</sup> **Democratization**, pg. 41.

<sup>13</sup> See below vis-à-vis eliminating the seven nations.

<sup>14</sup> Rakha, **Eleh Divrei Habrit**, Vol. 1, pg. 69: "It is forbidden for Israel to violate international laws even if they contradict the laws of Israel". For more information about the Rakha's idea of international law, and other Jewish sages that held similar positions, see Amos Israel-Vleeschhouwer's doctorate, **The Attitudes of Jewish Law Towards International Law: Analyzing the Jewish Legal Materials and Processes** [Hebrew]; and also: Amos Israel-Vleeschhouwer and Shaiya Rothberg, "International Law, the State and the Human Being in the Thought of Rabbi Chayim Hirschensohn" [Hebrew] (forthcoming).

<sup>15</sup> While there exists a whole literature of traditional and critical studies about the role of human autonomy in Jewish law, the principle that sometimes God wants us to override the traditional halacha (Jewish law) is generally accepted. Menachem Elon, a former chief justice in Israel and a great scholar of Jewish law, sums it up like this (**Encyclopedia Judaica** 2<sup>nd</sup> Ed., "Takkanot"):

Halakhic legislation generally functions with two principal objectives:

(1) to fill a lacuna in the law created in consequence of changed social and economic realities and the emergence of problems which find no answer in the existing *halakhah*; in this event the *takkanah* generally serves to add to the existing *halakhah*;

(2) to amend and vary the existing *halakhah* to the extent that this is dictated by the needs of the hour...

These two objectives are pursued by legislation, whether *takkanah* or *gezerah*, in all the different fields of the *halakhah* – certain areas whereof are wholly founded on such legislation while in other areas its influence is felt to a greater or lesser degree. The latter phenomenon is largely a reflection of the extent to which it proved possible to resort to interpretation (*midrash*) for a solution to the problems that arose. In seeking the solution to a problem that arose the scholars had recourse, first and above all, to the legal source of interpretation, since by so doing the solution would be forthcoming from scriptural passages or from existing *halakhah*. Only when interpretation was not a means to a solution did the scholars resort to *takkanah* – which represented an innovation in the world of the *halakhah*...

<sup>16</sup> Rakha, **Eleh Divrei Habrit**, Vol. 1, pg. 69ff. I posted some selections from the Rakha's discussion of this subject, together with English translations, [here](#).

<sup>17</sup> In Perek Helek (part of the Rambam's **Commentary on the Mishnah**, Tractate Sanhedrin), the Rambam says:

"...when you encounter a word of the sages which seems to conflict with *intellect*, you will pause, consider it, and realize that this utterance must be a riddle or a parable. You

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will sleep on it, trying anxiously to grasp its logic and its expression, so that you many find its genuine *intellectual* intention and lay hold of a direct faith, as Scripture says: "To find out words of delight, and that which was written uprightly, even words of truth" (Eccles. 12:10).

Similarly, in the Guide to the Perplexed 2:25 he states says that if science had proven that the world is eternal and not created, in contradiction to the simple meaning of the Bible, he would have interpreted the Bible to say that the world is eternal because that is the intellectual truth and "the gates of figurative interpretation are not shut in our faces".

<sup>18</sup> In one place (Malki Bakodesh, Vol. 4, pg. 10), the Rakha sums it up like this:

We must consider all things in light of morality and reason, and that which we find *kosher* and upright and established in relation to these two foundations, we then look into the *halacha* [Jewish law] – that all its paths are paths of pleasantness and its ways are peace (Prov. 3:17) – for the *halacha* never contradicts something which is upright and true in regard to morality and reason, and if we find [what seems to be a] contradiction, then we must struggle in study until we find that...either we don't understand the *halacha*, or we don't understand morality....

<sup>19</sup> There's no question that the Zohar's thinking about gender and sexuality has the potential to be oppressive. Some of the most reactionary currents in Jewish culture are associated with the Zohar. However, I think that there's also something radical and subversive in the Zohar's take on sex and gender, men and women, and how these relate to God. I believe that if we read the Zohar right it can shed much light on human sexuality, oppression and liberation. Like all sacred texts, the Zohar needs to be liberated from its historical limitations in order to liberate us. Vis-à-vis "male and female", we must be careful not to confuse them with men and women. In the Zohar, all men and all women are *both male and female*. And thus, "the loving relation between male and female" is not limited to heterosexual relationships (or even to sexual relationships). If we are to treat the Zohar as a sacred text, we must read it in light of the truth: **Anyone with a clear mind can see the beauty and goodness of God in loving relationships all across the spectrum: hetero, homo, "queer", post, trans or whatever.** And so the loving and life-giving dynamic of ADAM, the Image of God, includes - and is manifest in - them all.

<sup>20</sup> "The face to face relation" and "the balance of the scales" (a phrase which I will introduce in a moment) are from the opening of the Sifra Detsiuta (Zohar Terumah 2:176b); "the loving relation between male and female" and "giving and receiving" are from the Hakdama of the Zohar (1:13b).

<sup>21</sup> Idra Rabba (Zohar Naso 3:135a-b)